

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 33

98TH GENERAL ASSEMBLY

Reported from the Committee on Small Business, Insurance and Industry, April 30, 2015, with recommendation that the Senate Committee Substitute do pass.

0385S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 173.260 and 287.243, RSMo, and to enact in lieu thereof two new sections relating to survivor benefits.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 173.260 and 287.243, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 173.260 and 287.243, to
3 read as follows:

173.260. 1. As used in this section, unless the context clearly requires
2 otherwise, the following terms mean:

3 (1) "Board", the coordinating board for higher education;

4 (2) "Eligible child", the natural, adopted or stepchild of a public safety
5 officer or employee, as defined in this section, who is less than twenty-four years
6 of age and who is a dependent of a public safety officer or employee or was a
7 dependent at the time of death or permanent and total disability of a public
8 safety officer or employee;

9 (3) "Employee", any full-time employee of the department of
10 transportation engaged in the construction or maintenance of the state's
11 highways, roads and bridges;

12 (4) "Grant", the public safety officer or employee survivor grant as
13 established by this section;

14 (5) "Institution of postsecondary education", any approved public or
15 private institution as defined in section 173.205;

16 (6) "Line of duty", any action of a public safety officer, whose primary
17 function is crime control or reduction, enforcement of the criminal law, or
18 suppression of fires, is authorized or obligated by law, rule, regulation or

19 condition of employment or service to perform;

20 (7) "Public safety officer", any firefighter, **uniformed employee of the**
21 **office of the state fire marshal, emergency medical technician as**
22 **defined in subdivisions (15), (16), (17), (18), and (19) of section 190.100,**
23 police officer, capitol police officer, parole officer, probation officer, state
24 correctional employee, water safety officer, park ranger, conservation officer or
25 highway patrolman employed by the state of Missouri or a political subdivision
26 thereof who is killed or permanently and totally disabled in the line of duty;

27 (8) "Permanent and total disability", a disability which renders a person
28 unable to engage in any gainful work;

29 (9) "Spouse", the husband, wife, widow or widower of a public safety
30 officer or employee at the time of death or permanent and total disability of such
31 public safety officer;

32 (10) "Tuition", any tuition or incidental fee or both charged by an
33 institution of postsecondary education, as defined in this section, for attendance
34 at that institution by a student as a resident of this state.

35 2. Within the limits of the amounts appropriated therefor, the
36 coordinating board for higher education shall provide, as defined in this section,
37 a grant for either of the following to attend an institution of postsecondary
38 education:

39 (1) An eligible child of a public safety officer or employee killed or
40 permanently and totally disabled in the line of duty; or

41 (2) A spouse of a public safety officer killed or permanently and totally
42 disabled in the line of duty.

43 3. An eligible child or spouse may receive a grant under this section only
44 so long as the child or spouse is enrolled in a program leading to a certificate, or
45 an associate or baccalaureate degree. In no event shall a child or spouse receive
46 a grant beyond the completion of the first baccalaureate degree or, in the case of
47 a child, age twenty-four years, except that the child may receive a grant through
48 the completion of the semester or similar grading period in which the child
49 reaches his twenty-fourth year. No child or spouse shall receive more than one
50 hundred percent of tuition when combined with similar funds made available to
51 such child or spouse.

52 4. The coordinating board for higher education shall:

53 (1) Promulgate all necessary rules and regulations for the implementation
54 of this section;

55 (2) Determine minimum standards of performance in order for a child or
56 spouse to remain eligible to receive a grant under this program;

57 (3) Make available on behalf of an eligible child or spouse an amount
58 toward the child's or spouse's tuition which is equal to the grant to which the
59 child or spouse is entitled under the provisions of this section;

60 (4) Provide the forms and determine the procedures necessary for an
61 eligible child or spouse to apply for and receive a grant under this program.

62 5. An eligible child or spouse who is enrolled or has been accepted for
63 enrollment as an undergraduate postsecondary student at an approved institution
64 of postsecondary education shall receive a grant in an amount not to exceed the
65 least of the following:

66 (1) The actual tuition, as defined in this section, charged at an approved
67 institution where the child or spouse is enrolled or accepted for enrollment; or

68 (2) The amount of tuition charged a Missouri resident at the University
69 of Missouri for attendance as a full-time student, as defined in section 173.205.

70 6. An eligible child or spouse who is a recipient of a grant may transfer
71 from one approved public or private institution of postsecondary education to
72 another without losing his entitlement under this section. The board shall make
73 necessary adjustments in the amount of the grant. If a grant recipient at
74 anytime withdraws from the institution of postsecondary education so that under
75 the rules and regulations of that institution he is entitled to a refund of any
76 tuition, fees, or other charges, the institution shall pay the portion of the refund
77 to which he is entitled attributable to the grant for that semester or similar
78 grading period to the board.

79 7. If an eligible child or spouse is granted financial assistance under any
80 other student aid program, public or private, the full amount of such aid shall be
81 reported to the board by the institution and the eligible child or spouse.

82 8. Nothing in this section shall be construed as a promise or guarantee
83 that a person will be admitted to an institution of postsecondary education or to
84 a particular institution of postsecondary education, will be allowed to continue to
85 attend an institution of postsecondary education after having been admitted, or
86 will be graduated from an institution of postsecondary education.

87 9. A public safety officer who is permanently and totally disabled shall be
88 eligible for a grant pursuant to the provisions of this section.

89 10. An eligible child of a public safety officer or employee, spouse of a
90 public safety officer or public safety officer shall cease to be eligible for a grant

91 pursuant to this section when such public safety officer or employee is no longer
92 permanently and totally disabled.

287.243. 1. This section shall be known and may be cited as the "Line of
2 Duty Compensation Act".

3 2. As used in this section, unless otherwise provided, the following words
4 shall mean:

5 (1) "Air ambulance pilot", a person certified as an air ambulance pilot in
6 accordance with sections 190.001 to 190.245 and corresponding regulations
7 applicable to air ambulances adopted by the department of health and senior
8 services, division of regulation and licensure, 19 CSR 30-40.005, et seq.;

9 (2) "Air ambulance registered professional nurse", a person licensed as a
10 registered professional nurse in accordance with sections 335.011 to 335.096 and
11 corresponding regulations adopted by the state board of nursing, 20 CSR 2200-4,
12 et seq., who provides registered professional nursing services as a flight nurse in
13 conjunction with an air ambulance program that is certified in accordance with
14 sections 190.001 to 190.245 and the corresponding regulations applicable to such
15 programs;

16 (3) "Emergency medical technician", a person licensed in emergency
17 medical care in accordance with standards prescribed by sections 190.001 to
18 190.245 and by rules adopted by the department of health and senior services
19 under sections 190.001 to 190.245;

20 (4) "Firefighter", any person, including a volunteer firefighter, employed
21 by the state or a local governmental entity as an employer defined under
22 subsection 1 of section 287.030, or otherwise serving as a member or officer of a
23 fire department either for the purpose of the prevention or control of fire or the
24 underwater recovery of drowning victims, **a uniformed employee of the office**
25 **of the state fire marshal, or an emergency medical technician as**
26 **defined in subdivisions (15), (16), (17), (18), and (19) of section 190.100;**

27 (5) "Killed in the line of duty", when any person defined in this section
28 loses his or her life when:

29 (a) Death is caused by an accident or the willful act of violence of another;

30 (b) The law enforcement officer, emergency medical technician, air
31 ambulance pilot, air ambulance registered professional nurse, or firefighter is in
32 the active performance of his or her duties in his or her respective profession and
33 there is a relationship between the accident or commission of the act of violence
34 and the performance of the duty, even if the individual is off duty; the law

35 enforcement officer, emergency medical technician, air ambulance pilot, air
36 ambulance registered professional nurse, or firefighter is traveling to or from
37 employment; or the law enforcement officer, emergency medical technician, air
38 ambulance pilot, air ambulance registered professional nurse, or firefighter is
39 taking any meal break or other break which takes place while that individual is
40 on duty;

41 (c) Death is the natural and probable consequence of the injury; and

42 (d) Death occurs within three hundred weeks from the date the injury was
43 received.

44 The term excludes death resulting from the willful misconduct or intoxication of
45 the law enforcement officer, emergency medical technician, air ambulance pilot,
46 air ambulance registered professional nurse, or firefighter. The division of
47 workers' compensation shall have the burden of proving such willful misconduct
48 or intoxication;

49 (6) "Law enforcement officer", any person employed by the state or a local
50 governmental entity as a police officer, peace officer certified under chapter 590,
51 or serving as an auxiliary police officer or in some like position involving the
52 enforcement of the law and protection of the public interest at the risk of that
53 person's life;

54 (7) "Local governmental entity", includes counties, municipalities,
55 townships, board or other political subdivision, cities under special charter, or
56 under the commission form of government, fire protection districts, ambulance
57 districts, and municipal corporations;

58 (8) "State", the state of Missouri and its departments, divisions, boards,
59 bureaus, commissions, authorities, and colleges and universities;

60 (9) "Volunteer firefighter", a person having principal employment other
61 than as a firefighter, but who is carried on the rolls of a regularly constituted fire
62 department either for the purpose of the prevention or control of fire or the
63 underwater recovery of drowning victims, the members of which are under the
64 jurisdiction of the corporate authorities of a city, village, incorporated town, or
65 fire protection district. Volunteer firefighter shall not mean an individual who
66 volunteers assistance without being regularly enrolled as a firefighter.

67 3. (1) A claim for compensation under this section shall be filed by the
68 **spouse, child, or personal representative of the** estate of the deceased with
69 the division of workers' compensation not later than one year from the date of
70 death of a law enforcement officer, emergency medical technician, air ambulance

71 pilot, air ambulance registered professional nurse, or firefighter. If a claim is
72 made within one year of the date of death of a law enforcement officer, emergency
73 medical technician, air ambulance pilot, air ambulance registered professional
74 nurse, or firefighter killed in the line of duty, compensation shall be paid, if the
75 division finds that the claimant is entitled to compensation under this section, **as**
76 **follows:**

77 **(a) If there is a surviving spouse but no surviving child of the**
78 **law enforcement officer, emergency medical technician, air ambulance**
79 **pilot, air ambulance registered professional nurse, or firefighter, then**
80 **to such person's surviving spouse;**

81 **(b) If there is a surviving spouse and at least one surviving child**
82 **of the law enforcement officer, emergency medical technician, air**
83 **ambulance pilot, air ambulance registered professional nurse, or**
84 **firefighter, then fifty percent to the surviving spouse and fifty percent**
85 **in equal shares to the surviving child or children;**

86 **(c) If there is no surviving spouse and at least one surviving**
87 **child of the law enforcement officer, emergency medical technician, air**
88 **ambulance pilot, air ambulance registered professional nurse, or**
89 **firefighter, then to the surviving child or children in equal shares;**

90 **(d) If there is no surviving spouse and no surviving child of the**
91 **law enforcement officer, emergency medical technician, air ambulance**
92 **pilot, air ambulance registered professional nurse, or firefighter, then**
93 **to the decedent's estate.**

94 (2) The amount of compensation paid to the claimant shall be twenty-five
95 thousand dollars, subject to appropriation, for death occurring on or after June
96 19, 2009.

97 4. Notwithstanding subsection 3 of this section, no compensation is
98 payable under this section unless a claim is filed within the time specified under
99 this section setting forth:

100 (1) The name, address, and title or designation of the position in which
101 the law enforcement officer, emergency medical technician, air ambulance pilot,
102 air ambulance registered professional nurse, or firefighter was serving at the time
103 of his or her death;

104 (2) The name and address of the claimant;

105 (3) A full, factual account of the circumstances resulting in or the course
106 of events causing the death at issue; and

107 (4) Such other information that is reasonably required by the division.
108 When a claim is filed, the division of workers' compensation shall make an
109 investigation for substantiation of matters set forth in the application.

110 5. The compensation provided for under this section is in addition to, and
111 not exclusive of, any pension rights, death benefits, or other compensation the
112 claimant may otherwise be entitled to by law.

113 6. Neither employers nor workers' compensation insurers shall have
114 subrogation rights against any compensation awarded for claims under this
115 section. Such compensation shall not be assignable, shall be exempt from
116 attachment, garnishment, and execution, and shall not be subject to setoff or
117 counterclaim, or be in any way liable for any debt, except that the division or
118 commission may allow as lien on the compensation, reasonable attorney's fees for
119 services in connection with the proceedings for compensation if the services are
120 found to be necessary. Such fees are subject to regulation as set forth in section
121 287.260.

122 7. Any person seeking compensation under this section who is aggrieved
123 by the decision of the division of workers' compensation regarding his or her
124 compensation claim, may make application for a hearing as provided in section
125 287.450. The procedures applicable to the processing of such hearings and
126 determinations shall be those established by this chapter. Decisions of the
127 administrative law judge under this section shall be binding, subject to review by
128 either party under the provisions of section 287.480.

129 8. Pursuant to section 23.253 of the Missouri sunset act:

130 (1) The provisions of the new program authorized under this section shall
131 automatically sunset six years after June 19, 2019, unless reauthorized by an act
132 of the general assembly; and

133 (2) If such program is reauthorized, the program authorized under this
134 section shall automatically sunset twelve years after the effective date of the
135 reauthorization of this section; and

136 (3) This section shall terminate on September first of the calendar year
137 immediately following the calendar year in which the program authorized under
138 this section is sunset.

139 9. The provisions of this section, unless specified, shall not be subject to
140 other provisions of this chapter.

141 10. There is hereby created in the state treasury the "Line of Duty
142 Compensation Fund", which shall consist of moneys appropriated to the fund and

143 any voluntary contributions, gifts, or bequests to the fund. The state treasurer
144 shall be custodian of the fund and shall approve disbursements from the fund in
145 accordance with sections 30.170 and 30.180. Upon appropriation, money in the
146 fund shall be used solely for paying claims under this section. Notwithstanding
147 the provisions of section 33.080 to the contrary, any moneys remaining in the
148 fund at the end of the biennium shall not revert to the credit of the general
149 revenue fund. The state treasurer shall invest moneys in the fund in the same
150 manner as other funds are invested. Any interest and moneys earned on such
151 investments shall be credited to the fund.

152 11. The division shall promulgate rules to administer this section,
153 including but not limited to the appointment of claims to multiple claimants,
154 record retention, and procedures for information requests. Any rule or portion
155 of a rule, as that term is defined in section 536.010, that is created under the
156 authority delegated in this section shall become effective only if it complies with
157 and is subject to all of the provisions of chapter 536 and, if applicable, section
158 536.028. This section and chapter 536 are nonseverable and if any of the powers
159 vested with the general assembly under chapter 536 to review, to delay the
160 effective date, or to disapprove and annul a rule are subsequently held
161 unconstitutional, then the grant of rulemaking authority and any rule proposed
162 or adopted after June 19, 2009, shall be invalid and void.

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